

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

Submitted November 7, 2024*

Decided November 13, 2024

Before

DAVID F. HAMILTON, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 24-1823

CHARLES M. MARTIN,
Plaintiff-Appellant,

v.

MICHAEL FUGATE, et al.,
Defendants-Appellees.

Appeal from the United States District
Court for the Eastern District of
Wisconsin.

No. 23-C-483

William C. Griesbach,
Judge.

ORDER

Charles Martin, a Wisconsin prisoner, appeals the summary judgment rejecting his claims that four correctional officers used excessive force in restraining him after he assaulted an officer. Because no reasonable jury could find that the officers violated Martin's rights under the Eighth Amendment, we affirm.

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

We construe the record in Martin's favor. *See Arce v. Wexford Health Sources Inc.*, 75 F.4th 673, 678 (7th Cir. 2023). While incarcerated at Green Bay Correctional Institution, Martin assaulted Michael Fugate, the correctional officer overseeing an area where prisoners line up to receive medication. A security camera at the prison recorded the incident, but the recording has no audio. While Martin was waiting for his medication, Fugate cursed at Martin and ordered him to get back in line. Martin replied, "Watch how you talk to me. I'm not like these other dudes. I'll get on that." Fugate then grabbed Martin by the shoulder to handcuff him. Martin pulled away from Fugate and unleashed a flurry of punches, striking Fugate in the head. The two men grappled before Fugate struck Martin in the chest with his knee and wrestled him to the floor. Martin told Fugate, "I'm done. I'm done. I'm not resisting," while Fugate attempted to secure Martin's hands behind his back. (Fugate disputes that Martin made this statement and that Martin stopped struggling at this point.)

While Martin and Fugate were on the floor, Officer Kyle Rohde responded to the scene after receiving a radio call about the altercation. Rohde ran down the prison's hallway and joined the men on the floor. He then grabbed Martin's head with one hand and used his other hand to assist Fugate with securing Martin's hands behind his back.

Officer David Wisniewski also responded to the radio call. Observing that Fugate and Rohde were attempting to secure Martin's hands, Wisniewski grabbed one of Martin's arms and pulled it behind his back so that he could be restrained. Meanwhile, Rohde continued to restrain Martin's head.

After the officers had handcuffed Martin, Officer Joseph Lannoye helped to secure Martin's legs in restraints. The officers then stood Martin up and escorted him away from the area. After the incident, Martin experienced pain in his head, dizziness, and vomiting. He was diagnosed with a concussion several days later.

Martin sued Fugate, Rohde, Wisniewski, and Lannoye for violating his rights under the Eighth Amendment. *See* 42 U.S.C. § 1983. According to Martin, the officers used excessive force in restraining him by repeatedly bouncing his head off the floor and twisting his arm even though he had stopped resisting.

Relying in part on the video of the incident, the district court entered summary judgment for the defendants, ruling that Martin presented no evidence from which a jury could find that the officers had violated his rights under the Eighth Amendment. The court explained that the only reasonable conclusion that a jury could draw from the

video is that the officers applied force in a good-faith effort to secure Martin, and none of the officers intended to hurt him.

On appeal, Martin argues that the district court erred when it relied on the video evidence of the incident because some parts of it are obstructed or unclear. Martin argues that the district court instead should have relied on his account of events. Martin correctly observes that video evidence “can eviscerate a factual dispute only when the video is so definitive that there could be no reasonable disagreement about what the video depicts.” *Kailin v. Village of Gurnee*, 77 F.4th 476, 481 (7th Cir. 2023) (citing *Scott v. Harris*, 550 U.S. 372, 380 (2007)). Here, the video evidence shows much of the incident between Martin and the officers, but as Martin points out, the video is obscured for several seconds after Rohde initially grabs Martin’s head—the time during which Martin asserts that Rohde repeatedly bounced his head off the floor. According to Martin, a jury could find that he was not resisting when the video was obscured, and therefore the officers violated the Eighth Amendment when they continued to restrain him and bounced his head off the floor.

But even if we resolve these factual disputes in Martin’s favor, summary judgment was proper. To prevail on his claim that the officers used excessive force in violation of the Eighth Amendment, Martin must show that force was applied ““maliciously and sadistically”” to cause harm, rather than ““in a good-faith effort to maintain or restore discipline.”” See *Harper v. Albert*, 400 F.3d 1052, 1065 (7th Cir. 2005) (quoting *Hudson v. McMillian*, 503 U.S. 1, 7 (1992)). In evaluating this subjective requirement, courts consider “the need for an application of force, the relationship between that need and the force applied, the threat reasonably perceived by the responsible officers, the efforts made to temper the severity of the force employed, and the extent of the injury suffered by the prisoner.” *Id.* (quoting *Hudson*, 503 U.S. at 7). Martin argues that a jury could infer that the officers violated the Eighth Amendment when they used force to restrain him even after he told them he would stop resisting. But the officers were not required to believe him. *Olson v. Morgan*, 750 F.3d 708, 713 (7th Cir. 2014). And in any case, even if Martin had stopped resisting while he was pinned to the ground, the officers used reasonable force to restore order by restraining Martin’s arms and legs after his violent assault on an officer only moments earlier.

Further, even if Rohde hit Martin’s head on the floor while attempting to restrain him, no evidence shows that Rohde used force maliciously or sadistically. Rohde was the first officer to respond to the assault on another officer; he reasonably perceived an ongoing threat when he saw Martin and Fugate struggling on the floor; and he

deployed a technique that he had learned in his training to secure Martin's head. Throughout the time that Rohde used force to secure Martin's head, Martin was not yet handcuffed, and Rohde stopped applying force immediately after the officers had restrained Martin's hands. Although Martin may have suffered a concussion because of that use of force, the undisputed evidence shows that Rohde was acting in a good-faith effort to restrain Martin after he had assaulted an officer, not to harm him.

AFFIRMED